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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/322,259	05/28/1999	JOHN TERRANCE REAGAN	VLSI-3410	7735

24738 7590 09/17/2003

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 09/17/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/322,259

Applicant(s)

REAGAN

Examiner

Michael N. Opsasnick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 19, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tzeng (5293449) in view of DeJaco (648438).

As per claims 1,5,9, and 13, Tzeng (5293449) teaches a vocoder (abstract, line 1-12):

“receiving.....by said vocoder” as calculating means square error to determine if threshold has been met (col. 8 lines 55-61)

“provided an input signal.....continuously generated” as measuring the amount of energy of the signal, and choosing either a voice codebook or unvoiced codebook (col. 8 lines 11-48)

Tzeng (5293449) teaches random codebook excitation for unvoiced frames (Figs. 2,7, and abstract), but does not explicitly teach subframes encoded at differing rates, wherein each of these subframes, encoded at that rate, causes a randomized selection of codebook excitation vector; however, DeJaco teaches a quarter rate unvoiced decision on a subframe (Fig. 2; col. 9 line 60 – col. 10 line 34). Therefore, it would have been obvious to one of ordinary skill in the art of speech coding to modify the teachings of

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Tzeng with differential rate encoding based on the level of speech because it would improve the compression rate for the signal (DeJaco, col. 5 lines 18-40).

As per claims 2,6,10, and 14, Tzeng (5293449) teaches:

“receiving said determined input energy..... $4q^2$ ” as energy distortion threshold (col. 9 lines 25-31)

As per claims 3,7,11, and 15, Tzeng (5293449) teaches:

“calculating.....for said input signal” as summation of squares (col. 9 lines 25-34)

“provided said sum of squares value.....continuously generated’ as using the error equation to determine the use of random codebook excitation (col. 9 lines 44-60)

As per claims 4,8,12, and 16, Tzeng (5293449) teaches:

“calculating a sum.....input signal” as summation of squares (col. 9 lines 25-34)

“provided said sum of squares value.....codebook excitation vector” as using non-random excitation vector when error function dictates (col. 9 lines 44-57, col. 8 lines 41-57).

Response to Arguments

3. Applicant's arguments filed 7/9/2003 have been fully considered but they are not persuasive. As per applicant's arguments that applicant's claimed invention randomly selects a single codebook entry. In response to applicant's argument that the references fail to show

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certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., random selection of codebook entry) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

mno

9/13/2003


9/15/03
DORIS H. TO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600